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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/691,381 | 10/22/2003 | Kenji Kondo | 10407-67US (A3038MT-US1) | 8667 |
| 570. 7590 07/23/2008 PANITCH SCHWARZE BELISARIO & NADEL, LLP ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103 | | | | |
| EXAMINER | | | | |
| ALUNKAL, THOMAS D | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 2627 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/691,381

Applicant(s)

KONDO ET AL.

Examiner

THOMAS D. ALUNKAL

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Arguments

Applicant's arguments filed 3/25/08 have been fully considered but they are not persuasive.

Regarding Applicant's arguments beginning on page 7 or Remarks, the Applicant argues that Ishibashi et al. (hereafter Ishibashi)(US 5,808,979) does not disclose all of the limitations of claims 1-3 and 5-10. More specifically, the Applicant argues that the cited portions of Ishibashi indicated in the previous Office action to not disclose the claimed features of independent claim 1. The Applicant argues that "Filters 5a,b and 6a, 6b, as described at col. 4, lines 1-9 and shown in Fig. 2A and Fib. 2B, are the boost filters referred to al column 2, lines 11-21, which provide increasing detection gain of the short mark reproduction signals. Consequently, in contrast to the claimed invention, the filters 5a, b and 6a, b increase the amplitude of the higher frequencies and do not attenuate the frequency components of the minimum length marks." Firstly, it is noted that Elements 5a and 5b in Fig. 1 of Ishibashi were not relied upon for disclosing "first filter" and "second filter", as recited in claim 1, in the previous Office action. Secondly, it is noted that Elements 5a and 6a and Elements 5b and 6b are independently functioning elements. That is, the functionality of Elements 6a and 6b do not rely upon the functionality of Elements 5 and 5b, and vice versa. Therefore, the Applicant is arguing features of Ishibashi which were not relied upon in the previous Office action for disclosing the argued limitations. Therefore, the arguments pertaining specifically to Elements 5a and 5b of Fig. 1 are rendered moot.

In the previous Office action, Elements 4a and 6a and Elements 4b and 6b were relied upon for disclosing "first filter" and "second filter", respectively. In particular, low pass filters 6a and 6b, which are well known to those skilled in the art as elements that pass low-frequency signals but additionally reduce (attenuate) the amplitudes of signals which have frequencies that are higher than a predetermined cutoff frequency, are relied upon in the previous Office action for disclosing "first filter" and "second filter" as recited in claim 1. As noted by the Applicant in Remarks, boost filters 5a and 5b "increase the amplitude of higher frequencies" corresponding to the minimum mark lengths. Low pass filters 6a and 6b will then attenuate the high frequency signals corresponding to the minimum marks lengths because these frequencies are higher than the cutoff frequency as defined by Ishibashi. Therefore, low pass filters 6a and 6b of Ishibashi do reduce (attenuate) the amplitude of frequencies components of "first read signal" and "second read signal", respectively, as recited in independent claim 1. Thus, the Examiner believes that Ishibashi discloses all of the argued and claimed limitations of claims 1-3 and 5-10. Accordingly, the previous grounds of rejection are maintained and will be reiterated below.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Ishibashi et al (hereafter Ishibashi)(US 5,808,979), as applied in the Office action dated 11/27/07.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Yamamoto et al (US 6,028,826) disclose an optical disk apparatus performing correction of phase difference tracking error signal. Aoki et al (US 5,602,823) disclose an optical recording medium having pre-formatted patterns arranged by shifting phases. Ma et al. (US 7,102,967) discloses a method and apparatus for tracking error detection in an optical disc driver. Konno et al. (US 6,868,052) discloses an optical disc playback apparatus and method judging a disc type.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS D. ALUNKAL whose telephone number is (571)270-1127. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on (571)272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas D Alunkal/
Examiner, Art Unit 2627

/Wayne Young/
Supervisory Patent Examiner, Art Unit 2627